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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,989	12/13/2001	Gary J. Gracyalny	18367-9631-00	7644

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EXAMINER

MILLER, CARL STUART

ART UNIT PAPER NUMBER

3747

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/021,989

Applicant(s)

GRACYALNY ET AL.

Examiner

Carl S. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 20,21,23 and 24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 25-40 is/are rejected.
- 7) ☒ Claim(s) 22 and 41-46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2&8.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claims 20-21 and 23-24 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

The applicant will note that these claims do not read on the elected species despite the fact that applicant felt all claims were readable on the species elected.

Thus, it is assumed that the election is with traverse.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-7, 9-19, 25-26, 28-33 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto in view of Sierk.

Miyamoto teaches two parallel valves mounted in the same housing, one closing a fuel flow conduit. The valves are for a portable engine such as one which would be used on a lawnmower, generator or pressure washer. Single cylinder engines are the norm in the art, but a multi-cylinder engine would have been an obvious choice for a generator which might require more power output than a typical lawnmower. Finally, while it is implied that a mechanical means is used to rotate element (17) this is not specifically disclosed.

Sierk teaches a purely mechanical linkage used to turn a valve that stops fuel flow to an engine.

It would have been obvious to Modify Miyamot by using a purely mechanical actuator to close the valves because this would have been a mere mechanical expedient commonly used in the art for the same purpose.

Claims 5 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto and Sierk as applied to claim 1 above, and further in view of Winberg ('323).

Winberg teaches grounding the ignition circuit of a portable engine to stop engine operation and since this is a common cutoff means in the art for small engines it would have been obvious to use this method to stop the engine while closing the tank vent.

Claims 8 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto and Sierk as applied to claim 1 above, and further in view of Nofel.

Nofel teaches the commonly known safety feature of stopping a blade on a small engine device when an engine is stopped, thereby making this an obvious feature to add to the Miyamoto device.

Claims 38,39, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto and Sierk as applied to claim 1 above, and further in view of Adams.


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Adams teaches a vent on a small portable engine gas tank which includes baffle means to keep gasoline from splashing out through the vent, thereby making the use of a baffle on the vent of Miyamoto obvious.

Claims 22 and 41-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Carl Miller at telephone number 703-308-2653.


Carl S. Miller
Primary Examiner